

ISSUES UPDATE

July 1997

LEGISLATION/REGULATION

(Roger Mozingo - 7665; Peggy Carter- 7674)


CIGARETTE EXCISE TAXES

- A **Delaware** House Committee rejected a proposal to double the current 24¢ cigarette excise tax.
- The **New Hampshire** legislature passed a budget that includes a 12¢ cigarette tax increase (25¢-37¢/pack), effective July 1.
- The **Maine** legislature passed and Governor King signed a measure that doubles the cigarette tax (37¢-74¢/pack), effective November 1.
- The **Oregon** Senate passed legislation to extend the sunset on a temporary 10¢ cigarette tax until 1/1/2000.
- The **Michigan** Department of Treasury announced it will administratively require tobacco wholesalers to affix a tax stamp to each pack of cigarettes sold in the State.

MEDICAID/THIRD PARTY LIABILITY

- A **California** bill that would remove tobacco products from a list of "inherently unsafe products" that are statutorily protected from liability was defeated on the Assembly floor. The author asked for future reconsideration, so the bill is eligible to come back up at some point in the session.

SALES, MARKETING, SMOKING RESTRICTIONS

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- The U.S. District Court for the Eastern District of New York invalidated a **Nassau County** (NY) Board of Health smoking regulation. The suit was brought by the Nassau Bowling Proprietors Association.
 - The **Vermont** legislature passed legislation banning vending machines and cigarette-pack-only self-service displays.

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- **Texas** Governor Bush signed into law a bill that will require all tobacco sales at retail to be vendor-assisted. The legislation also includes a 10% tax on all tobacco billboard advertising.

INGREDIENTS DISCLOSURE

- In **Connecticut**, a Senate-approved tobacco ingredients disclosure bill failed to pass the legislature before adjournment.
- A suit has been filed in the St. Paul U.S. District Court to block implementation of **Minnesota** legislation that requires manufacturers of tobacco products to report to the Health Department the presence of five chemicals found in tobacco products.

DIVESTMENT

- In **Vermont**, both the State Employees and the State Teachers Retirement Boards voted to divest their tobacco stock.
- The **Philadelphia** City Council voted to divest its employee retirement fund of tobacco holdings. However, the council allowed the fund manager to make a final decision.

LEGISLATIVE SESSIONS

- **Wyoming, Connecticut, Tennessee and South Carolina** adjourned 1997 sessions with no legislation passing that would adversely affect the company or the industry.
- **New Hampshire, Vermont, Maine, Oklahoma and Texas** adjourned legislative sessions.

LAWSUITS

(Dan Donahue - 0656; Sharon Johe - 0644; Tom McKim - 3348 Peggy Carter - 7674)

TOTALS -- RJR currently has a total of 358 pending smoking and health suits. The industry has 500 (which includes those that RJR is party to).

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MEDICAID/THIRD PARTY LIABILITY

- **Mississippi** -- The AG case has been settled, however the settlement will be superseded by any industrywide settlement approved by Congress.
- **Washington** Superior Court Judge George A. Finkle dismissed most of the claims brought by AG Christine Gregoire seeking reimbursement for Medicaid waste incurred for treatment of alleged smoking related illnesses.
- Attorneys General in **Idaho, New Hampshire, California, Colorado, Rhode Island and Maine** filed suit to recover expenditures for alleged tobacco-related illnesses.
- Three **American Indian nations** have sued the industry in their tribal courts. Two are similar to the AG recoupment actions; one is a class action.

CLASS ACTION

- **Broin** (flight attendants/ETS) -- Jury selection continues. Opening statements expected to begin July 14.
- **Engle** (addiction plus disease, in Florida only) is still scheduled for trial on Sept. 8.

INDIVIDUAL SUITS

- **Butler** (ETS barber case in Mississippi) has been postponed until June 1988.
- **Karbiwnyk** (Jacksonville, Fla.) has been postponed until October 1997.

STATE AND LOCAL

(Roger Mozingo - 7665; Tim Hyde - 6820)

RETAIL ISSUES

Rolling Meadows, IL — The city council is considering a proposal to ban vending machines. There is also talk of including a ban on self-service displays. The issue is temporarily on hold as the council researches state plans for action,

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and the FDA rules and their legal limits. No date for further consideration has been set.

New York City, NY — The council is considering a bill to ban all advertising and promotion of tobacco products in the city. A hearing was held on 6/26. At least two more hearings are planned for September.

Burlington, VT — The board of health has asked the city attorney to draft a tobacco retailing ordinance that will include self-service display bans. No date is set for the draft to be complete, but hearings will be scheduled once it is introduced to the city council.

SMOKING ISSUES

Sierra Vista, AZ — The city council held a work session on 5/14 and more than 100 showed up to discuss a possible ban on smoking in enclosed public places. The council will not pursue the ban, but the Mayor, acting as a private citizen will try to get the 254 signatures need to put the issue on the ballot in the fall.

Georgia Local — The **Columbia County** Board of Health held two public hearings on a proposal to require 75 percent of restaurant seating to nonsmoking. The issue is being reviewed by the board of health, which will draft a formal proposal to present to the county commissioners. No date is set for the proposal to be presented. The **Richmond County** Board of Health passed a similar ordinance about a year ago. Now the board is looking to pass a 100 percent smoking ban. Two hearings were held at which those opposing the bans outnumbered supporters. The commissioners are giving final decision on this ordinance to the board of health. The board decided on 4/17 to go ahead with drafting a proposal. If a smoking ban passes, several restaurant owners have promised to file suit. The board will wait on the outcome of **Fayette County's** request to the state attorney general. **Fayette County** is also considering a ban on smoking in all enclosed public places, including restaurants. But, the board of health decided against to defer a decision on the proposed ban on smoking in enclosed public places to city and council officials. They are waiting on a decision on the authority of the board of health from the state attorney general. The board of health will discuss the issue once again at their meeting on 7/8.

Arlington Heights, IL — The village board of trustees voted 4-3 to re-draft a proposed ban on smoking in all enclosed public places including bars and restaurants. The trustees instructed the board of health to re-draft the proposal because it was too sweeping. No date is set for the board to return a revision to the trustees.

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Massachusetts Local — The Falmouth Board of Health has indefinitely postponed a new proposal that would ban smoking in smaller restaurants. The Holliston Board of Health met on 7/7 to consider language for a new public places smoking regulation. Wakefield restaurant owners are looking to change the 2-year old smoking ban. On 7/8, they will meet with the Massachusetts Restaurant Association to discuss possible alternatives to present to the board of health. Worcester's City Council voted to reform a tobacco advisory committee and to re-refer to the city solicitor, a non-binding question which will be put on the fall ballot concerning banning smoking in public places and requiring restaurant smoking in designated areas only. The antis aren't satisfied with the language and are pushing for something stricter. The council has until 9/30 to decide on the language for the fall ballot.

New York Local — The Cattaraugus County Legislature held a public hearing on 6/11 to consider a proposal that would mirror Erie County's smoking ban ordinance. It would phase in a smoking ban that would allow smoking in all public places only in separate and separately ventilated rooms. The legislature heard from 25 restaurant owners then tabled the proposal indefinitely for more public input. The Chataqua County Human Services Committee did not discuss the smoking ban issue at their meeting on 5/20. But they did listen to 15-20 people who came to speak out against any smoking restrictions. The committee is looking at the board of health's very strict smoking ban as well as a possible compromise between that and the current law. No date for further consideration has been set. A federal judge overturned the Nassau County Board of Health's smoking ban. He said that only legislative bodies had the authority to pass such a law that took into account factors other than health. The county legislature has introduced a smoking ban proposal. The Niagara County legislature has asked the board of health to let the legislature debate and vote on any smoking restrictions because of the possible economic impacts. The legislature voted to create a task force made up of all sides of the issue to recommend changes to the current law. The group has not been completely formed and more people are still needed. No date is set for the group to report back to the legislature.

Texas Local — The Irving Board of Health has re-drafted the smoking ordinance. The re-draft will allow smoking in existing restaurants, but in new construction and changed ownership establishments, smoking is only allowed in separate rooms or with separate ventilation. At the last work session, a new council member asked that the city attorney investigate the ventilation requirements for other cities in the Dallas-Fort Worth area. The attorney will come back at a future work session. The earliest date would be 7/16. The Lake Jackson City Council is looking into smoking restrictions. They have met with restaurant owners and held a public hearing on the issue. They are currently in the fact-finding stage, looking for a proposal that will satisfy everyone. It appears that an anti on the San Antonio City Council will try once again to push

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for a ban on smoking in restaurants and workplaces. The council defeated the proposal at the end of May, but this council member thinks he may be able to get it through with the new members in place.

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